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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/803,905	03/13/2001	William Martin Snelgrove	13222.00037	8933

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EXAMINER


NGUYEN, STEVEN H D

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/803,905	Applicant(s) SNELGROVE ET AL. 	
	Examiner Steven HD Nguyen	Art Unit 2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-105 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-105 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/13/01, 4/01</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 27-31, 33, 36-38, 40-43, 45-46, 52-56, 58, 61-63, 65-66, 69-73, 75, 78-80, 82-83, 86-91, 93, 96-98, 10-111, 104-105 are rejected under 35 U.S.C. 102(b) as being anticipated by Oomuro (USP 5258979).

Regarding claims 27, 52, 69, 86-87, Oomuro discloses a telecommunication system comprising a first user interface (Fig 18, Ref 4, 4-1) and a second user interface (Fig 18, Ref 4, 4-2) interconnected by a telecommunications network (Fig 18, Ref 2); said first user interface connected to at least one computer processor and electronic memory means for executing a first set interface's requirements for communicating with said second user programming code that determines said first user interface (Fig 18, Ref 3 and col. 5, lines 27 to col. 6, lines 39); said telecommunication network connected to said at least one computer processor and electronic memory means for executing a second set of programming code that determines available network resources of said network (Fig 18, Ref 31 of Ref 3 for determining the available bandwidth); and said at least one computer processor and electronic memory means operable to execute a third set of programming code that manages negotiations between said first set of programming code and said second set of programming code, said negotiations for determining terms of communication between said first user interface and said second user interface through

Art Unit: 2665

said network, said negotiations based on a trusted negotiating discipline (Fig 8b, the management apparatus receives the requests from first user 4-1 and second user 4-2 and determining the common allocable bandwidth of the network for the users after negotiating between the users and the network management apparatus, See Fig 16, col. 7, lines 1-5 and col. 7, lines 60 to col. 8, lines 63 discloses the negotiating steps between the users' interface and network management interface software based on trusted between the devices).

Regarding claims 28, 53, 70, 88, Oomuro discloses said trusted negotiating discipline is selectable by a user of said first user interface from a plurality of negotiating disciplines (Fig 8a, Ref 41-1 and 44-1 is the function for a user to accept "selectable" an offer during a negotiating "trusted negotiating discipline" from the network management before communication).

Regarding claims 29, 54, 71, 89, Oomuro discloses said requirements include the available hardware resources of said first user interface (Fig 8a, Ref 42-1, bandwidth).

Regarding claims 30, 55, 72, 90, Oomuro discloses said requirements include the network resources needed by an application executing on said first user interface (Fig 8a, Ref 42-1, bandwidth).

Regarding claims 31, 56, 73, 91, Oomuro disclose said application comprises voice telephony (Col. 7, lines 23-29, Voice).

Regarding claims 33, 58, 75, 93, Oomuro discloses said available network resources include presently available network resources (Fig 5, available bandwidth).

Regarding claims 36, 61, 78, 96, Oomuro inherently discloses said first set of programming code is implemented using a software agent programmed with instructions that

Art Unit: 2665

represent the interests of said first user interface (the communicating software must be established with an interest of the user).

Regarding claims 37, 62, 79, 97, Oomuro discloses the third of programming code is implemented as a negotiation manager software agent (Fig 18, Ref 31 is a negotiating software for allocating a common bandwidth between the users that can be accepted by them before starting the communication, See col. 7, lines 1-5 and col. 7, lines 60 to col. 8, lines 63).

Regarding claims 38, 63, 80, 98, Oomuro inherently discloses said second set programming code is implemented as a single network software agent (it determines the available bandwidth for a network).

Regarding claims 40, Oomuro discloses said second user interface is connected to a computer processor and an electronic memory means for executing a fourth set of programming code that determines said second user interface's requirements for communicating with said first user interface; and said third set of programming code for further managing said negotiations so as to include said fourth set of programming code (See col. 7, lines 1-5 and col. 7, lines 60 to col. 8, lines 63).

Regarding claims 41, Oomuro discloses the available hardware resources of said said requirements second user interface (Fig 8b, the bandwidth of first and second user interface, See col. 8, step 4).

Regarding claims 42, Oomuro discloses said requirements include the network resources needed by an application executing on said second user interface (Fig 8a, Ref 42-2, bandwidth).

Regarding claims 43, 45, 65, 82, 100, Oomuro discloses said communication comprises voice telephony (col. 7, lines 23-29).

Regarding claims 46, 66, 83, 101, Oomuro discloses said network comprises an ATM network (Fig 18, Ref 2 is ATM).

Regarding claim 104, Oomuro discloses said negotiation comprises initiating said communication (Col. 7, lines 60-68).

Regarding claim 105, Oomuro discloses said communication is ongoing and said negotiation is for modifying terms of an said existing communication (Col. 8, lines 60-63).

3. Claims 49-51 are rejected under 35 U.S.C. 102(e) as being anticipated by Gell (USP 6577858).

Regarding claim 49, Gell discloses a computer-implemented method for negotiating terms of communication between a first user interface (Fig 7, Ref 12) and a second user interface (Fig 7, Ref 12) connected by a telecommunications network (Fig 7, Ref 60), said method comprising the steps of receiving, from a first set of programming code associated with said first user interface, an offer for said terms offer including said of communication, said first user interface's first user interface's requirements for communicating with said second user interface through said network (Fig 17, Receive codes, See col. 17, lines 1-22); verifying said first user interface's offer conforms with a trusted negotiation discipline; presenting said first user interface's offer to a second set of programming code associated with said network if said first user interface's offer conforms with said discipline (See col. 17, lines 29-45); receiving from said second set of programming code, another offer for said terms of communication, said another offer including at least said network's available resources for said communication, and including a modification of said first user receiving, from said second set of interface's offer; returning said another offer to said first set of programming code discipline; said another offer

Art Unit: 2665

conforms with said repeating the foregoing steps if said offers conform with said discipline; and terminating said negotiating if any one of said offers and counteroffers fail to converge according to said negotiation discipline (Col. 17, lines 47-65 and inherently discloses terminating the process if no offer).

Regarding claim 50, Gell discloses trusted negotiating discipline first user interface from a plurality selectable by a user of said of negotiating disciplines (col. 17, lines 17-4).

Regarding claim 51, Gell discloses said requirements include the available hardware resource (Col. 17, lines 29-47, price per byte, frame, packet).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 32, 34-35, 39, 44, 47-48, 57, 59-60, 64, 67-68, 74, 76-77, 81, 84-85, 92, 94-95, 99, 102-103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oomuro.

Regarding claims 32, 44, 57, 74, 92, Oomuro fails to disclose requirements include the costs that are to be assessed first user interface during said communication. However, the examiner takes an official noticed that a method and advantage for the requirement includes a cost for negotiating is well known and expected in the art at the time of invention was made. Therefore, it would have been obvious to one of ordinary skill in the art to implement a cost in

Art Unit: 2665

the requirement of the request during communication into a system of Oomuro. The motivation would have been to provide a lowest cost communication.

Regarding claims 34, 59, 76, 94, Oomuro fails to disclose said available network resources include a cost of the network resources to be consumed during said communication. However, the examiner takes an official noticed that a method and advantage for determining a total cost for communicating between the users is well known and expected in the art at the time of invention was made. Therefore, it would have been obvious to one of ordinary skill in the art to implement a total cost for communicating between the users into a system of Oomuro. The motivation would have been to provide a customer with a billing on the fly.

Regarding claims 35, 60, 77, 95, Oomuro fails to disclose a prediction of network usage during said communication. However, the examiner takes an official noticed that a method and advantage for a prediction of network usage during said communication is well known and expected in the art at the time of invention was made. Therefore, it would have been obvious to one of ordinary skill in the art to implement it into the system of Oomuro. The motivation would have been to prevent a congestion such as an overbook.

Regarding claims 39, 64, 81, 99, Oomuro fails to disclose second set programming code is implemented as multiple network software agents, each network software agent being respective to a different telecommunication service provider. However, the examiner takes an official noticed that a method and advantage for second set programming code is implemented as multiple network software agents, each network software agent being respective to a different telecommunication service provider are well known and expected in the art at the time of invention was made. Therefore, it would have been obvious to one of ordinary skill in the art to

Art Unit: 2665

implement it into the system of Oomuro. The motivation would have been to reduce cost for user.

Regarding claims 47, 67, 84, 102, Oomuro fails to disclose said negotiating discipline includes at least one of a round robin, bid-and-ask, bluffing, poker and a reverse auction. However, the examiner takes an official noticed that a method and advantage for using at least one of a round robin, bid-and-ask, bluffing, poker and a reverse auction in the negotiating process is well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill in the art to implement it into the system of Oomuro. The motivation would have been to reduce cost for user.

Regarding claims 48, 68, 85, 103, Oomuro fails to disclose said negotiating discipline terminates said negotiation if said negotiations fail to reach an agreement within a predetermined period of time. However, the examiner takes an official noticed that a method and advantage for using a timer for terminating a process is well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill in the art to implement it into the system of Oomuro. The motivation would have been to prevent the system to be tight up from the a long process.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mashinsky (USP 6226365) discloses a server comprising a cost database for telecommunication service for receiving a request from a user and comparing the request with the value in the database for selecting a best offer.

Art Unit: 2665

Brisebois (USP 6310944) discloses a method and system for adding a context to the communications.

Thomas (USP 6205211) discloses internet telephone call pricing centers.

Koistinen (USP 6154778) discloses QOS negotiation in distributed system between client/server.

Rainis (USP 6310873) discloses a telephone rate quotes to customer.

Johnson (USP 6005925) discloses a bidding for telecommunications traffic over route segments.

DeSimone (USP 6175619) discloses a method and system for establishing telephone call via a broker.

Walker (USP 6345090) discloses a method and system for purchasing a telephone call.

Gell (USP 5802502) discloses a method and system for bidding a telephone call between the users by the provider.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2665

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'S. H. D. Nguyen', written in a cursive style.

Steven HD Nguyen
Primary Examiner
Art Unit 2665
2/17/05